

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Darrell Stamper,

Plaintiff,

vs.

Medicredit, Inc.,

Defendant.

C/A No: 7:18-cv-01407-DCC-KFM

**DEFENDANT’S
MOTION TO DISMISS**

Defendant Medicredit, Inc. respectfully moves this Court, under 12(b)(6), Rule 12(b)(1), and 12(h)(3) of the Federal Rules of Civil Procedure, to dismiss this case for failure to state a claim for which relief may be granted and lack of subject-matter jurisdiction. In support thereof, Defendant states as follows:

1. Plaintiff’s Amended Complaint [EFC #32] alleges that Medicredit, Inc., violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (“TCPA”).

2. This Court narrowed the Plaintiff’s allegations to violations related to calls placed to the Plaintiff’s residential phone. [ECF # 45].

3. Medicredit now moves the Court to Dismiss the Amended Complaint, with prejudice, because call to a residential phone number do not as a matter of law violate the TCPA.

4. Plaintiff has alleged that Medicredit called a residential phone number to collect a debt. [ECF # 32, ¶¶ 6, 10, 11, 17, 18, 19, 25]

5. Calls to a residential phone to collect on a debt are exempt from 47 U.S.C. § 227 (b)(1)(B) and, therefore, do not violate the TCPA. *See Shupe v. JPMorgan Chase Bank, N.A.*, 671 Fed. Appx. 419 (9th Cir. 2016).

6. Considering the Plaintiff's Amended Complaint, exhibits, and the previous conclusion of this Court, the Amended Complaint should be dismissed because it fails to state a claim for which relief may be granted.

7. The bases for the relief requested in this Motion are more fully detailed in an accompanying brief that is incorporated by this reference.

WHEREFORE, Medcredit, Inc. respectfully requests that the Court enter an order dismissing the Complaint. Medcredit additionally requests the Court enter such other or additional relief as the Court deems just and proper.

Respectfully submitted,

s/Robert L. Brown

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